

### **Remarks**

The following remarks are submitted to address the issues raised in the Office Action mailed September 9, 2004.

Claims 1-39 are pending in the present application.

Claims 25-38 were withdrawn from consideration by the Examiner after Applicants elected the compound of Example 9.

Claims 1, 2, 19-24, and 39 stand rejected under 35 U.S.C. § 103(a) as being obvious over US Pat. No. 5,703,092 to Xue et al.

Claims 3-18 are considered to be allowable by the Examiner but are objected to as being dependent on a rejected base claim.

No new matter has been added. The foregoing rejections and other items are addressed in the following paragraphs. Consideration of the pending claims is respectfully requested in view of the following comments.

### **Claim Amendments**

Claims 1 and 2 have been amended by canceling the "carboxyl" group from the list of "optional" substituents of the aryl and/or alkyl group(s) in R<sub>1</sub> - R<sub>19</sub>.

Support for the amendments to claims 1 and 2 may be found in each original claim which states the R<sub>1</sub> - R<sub>19</sub> groups "may be optionally substituted". The term "optionally" is defined on paragraph [0148] of the specification: "As used herein, the term "optionally" means that the subsequently described event(s) may or may not occur, and includes both event(s) which occur and events that do not occur." Thus the specification and original claims clearly support the present amendment to claims 1 and 2.

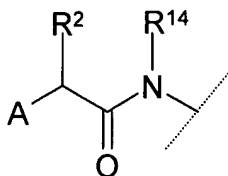
**Claims 1, 2, 19-24, and 39 - 35 U.S.C. § 103(a)**

The rejection of claims 1, 2, 19-24, and 39 under 35 U.S.C. § 103(a) as being obvious over US Pat. No. 5,703,092 to Xue et al. is respectfully traversed.

Contrary to the Examiner's statement, Applicants assert that it would not have been obvious to one of ordinary skill in the art to modify the compounds having benzimidazole rings disclosed in Xue to include at least one group of the formula -Y-C<sub>1-6</sub> alkylene-NR<sub>13</sub>R<sub>14</sub>.

Without acquiescing to the Examiner's arguments, but to expedite passage of the claims to allowance, Applicants have amended claims 1 and 2 by canceling the "carboxyl" group from the list of optional substituents of the aryl and/or alkyl group(s) in R<sub>1</sub> - R<sub>19</sub>.

In Xue, the compounds of Formula (I) include the amide group



wherein A is selected from -N(R<sup>8</sup>)C(R<sup>9</sup>)(R<sup>9a</sup>)CO<sub>2</sub>H, -CH(R<sup>11</sup>)C(R<sup>9</sup>)(R<sup>9a</sup>)CO<sub>2</sub>H, or -C(R<sup>1</sup>)(R<sup>1a</sup>)CONHOH. This amide group in combination with A, R<sup>2</sup>, and R<sup>14</sup> does not describe the R<sub>2</sub> group in the compounds of Formula (I) in claims 1, 2, 19-24, and 39 of the present application.

The amide group in Xue requires that the A group be terminated with a -CO<sub>2</sub>H or a -CONHOH group whereas the R<sub>2</sub> group in claim 1 of the present application is not terminated with a -CO<sub>2</sub>H or a -CONHOH group. It would not have been obvious to one of ordinary skill in the art to modify the amide group in Xue to remove the -CO<sub>2</sub>H or -CONHOH terminal group.

As a result, Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 2, 19-24, and 39 under 35 U.S.C. § 103(a) as being obvious over Xue.

#### **Claims 3-18 - Objection**

Claims 3-18 were considered to be allowable by the Examiner but were objected to as being dependent on a rejected claim. Applicants respectfully traverse the objection to claims 3-18.

Claims 3-18 depend from claim 2 and ultimately depend from claim 1. As described above, Applicants have traversed each and every rejection of claims 1 and 2.

#### **Fees**

This complete response is being filed within 3 months of the mailing of the Office Action on September 9, 2004. As a result, no fee is believed to be due.

**Conclusion**

In conclusion, Applicants request entry of the amendments, consideration of the Remarks, and passage of the application to issuance.

Respectfully submitted,

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